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July 24, 2019

***VIA ELECTRONIC MAIL***

Andrea Leshak, Esquire  
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U.S. Environmental Protection Agency,  
Region 2  
290 Broadway, 17<sup>th</sup> Floor  
New York, New York 10007-1866  
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Zolyamar Luna  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency,  
Region 2  
City View Plaza II, Suite 7000  
#48 Rd 165, km 1.2  
Guaynabo, Puerto Rico 00968-8069  
luna.zolyamar@epa.gov

***Re: Request for Information Pursuant to Section 104(e) of CERCLA to  
The J. M. Smucker Company Regarding the PROTECO Site, Peñuelas, Puerto Rico***

Dear Ms. Leshak and Ms. Luna,

On behalf of our client The J. M. Smucker Company ("Smucker"), we are submitting Smucker's Response to the U.S. Environmental Protection Agency's ("EPA") Request for Information pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act, 42, U.S.C. § 9604(e), et seq., as amended ("CERCLA"), concerning the above-referenced Site. Smucker received this Request on June 6, 2019. In a June 12, 2019 email, Ms. Leshak granted Smucker an extension until July 26, 2019 to submit its response.

If you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,

  
AnnMarie Sanford

ams  
Enclosure

#54437857 v1 (130553.43)

Philadelphia

Boston

Washington, D.C.

Detroit

New York

Pittsburgh

Berwyn

Harrisburg

Orange County

Princeton

Wilmington

**THE J. M. SMUCKER COMPANY  
RESPONSE TO U.S. EPA JUNE 3, 2019  
REQUEST FOR INFORMATION PURSUANT TO THE COMPREHENSIVE  
ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT  
REGARDING THE PROTECO SITE, PENUELAS, PUERTO RICO**

**INTRODUCTION**

The J. M. Smucker Company (“Smucker”) submits this Response to the U.S. Environmental Protection Agency’s (“EPA”) June 3, 2019 Request for Information (the “Request”) under §104(e) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, *et. seq.*, as amended (“CERCLA”). Smucker’s Response consists of written responses and documents provided to EPA electronically. The document file names are for convenience only and should not be construed as having any legal or factual significance.

**GENERAL RESPONSES AND OBJECTIONS**

The general responses and objections set forth below to EPA’s Request are intended to be continuing throughout the specific responses, even when not specifically repeated in a given response.

1. As is explained in EPA’s June 3, 2019 cover letter accompanying the Request, the Request seeks information concerning the actions of Star-Kist Caribe, Inc. Smucker objects to the Request on the basis that it is directed to the wrong party since, as is explained more fully below, Smucker has never had any relationship, affiliation or obligation concerning Star-Kist Caribe, Inc.

2. Smucker objects to these Requests as they relate to the disposal of waste materials at the PROTECO Superfund Site in Penuelas, Puerto Rico (the “Site”). Smucker has never conducted manufacturing activities in Puerto Rico, has never owned the Site or Facility and has never sent any waste material to the Site.

3. The following Response is submitted solely in connection with the Request. Smucker objects to, and would oppose, any intended or actual use of the information provided herein for any other purpose.

4. Nothing herein shall constitute an admission of liability. The information provided herein is based on information reasonably available to Smucker, except that any information protected by attorney-client privilege or attorney work product doctrine is not produced or disclosed.

5. To the extent the Request seeks information that is overly broad, overly burdensome, speculative, vague, ambiguous, not available to Smucker, not within Smucker’s

control or outside the EPA's authority under CERCLA §104(e), Smucker believes such request goes beyond its reasonable obligations, and on that basis, objects to such request.

6. Smucker objects to the Request on the grounds that it seeks information and/or documents that are publicly available or already in the possession, custody, or control of EPA.

7. Smucker objects to the suggestion that it has an ongoing duty to supplement the responses set forth herein on the grounds that CERCLA neither creates such a duty, nor does it authorize EPA or any other party to establish one.

8. Smucker objects to the terms "Material" and "Materials" on the grounds that they are overly broad and beyond the scope of CERCLA because they are defined in the Request to include "matter of any kind."

9. Smucker objects to these Requests to the extent they are not relevant to or reasonably related to EPA's enforcement of CERCLA requirements regarding the releases of hazardous substances, pollutants or contaminants.

10. Smucker objects to these Requests to the extent they use terms that are not defined and therefore not susceptible to a clear and definite answer.

11. Smucker objects to these Requests to the extent that they require Smucker to form, reach or set forth a legal conclusion.

12. Smucker objects to these Requests to the extent that they are vague as to the period of time encompassed by the Request.

13. Smucker objects to these Requests to the extent that they seek information which constitutes Confidential Business Information ("CBI").

Without waiving the foregoing objections, and reserving all rights to assert these and all other applicable objections in the future, Smucker provides the following specific responses to the Request.

### **BACKGROUND INFORMATION**

EPA's June 3, 2019 cover letter accompanying the Request asserts that waste from Star-Kist Caribe, Inc., located in Mayaguez, Puerto Rico, was transported to the Site. It is Smucker's understanding that on April 15, 2019, StarKist Co. provided information to EPA concerning the Site that identified Star-Kist Caribe, Inc. as a subsidiary of the H.J. Heinz Co ("Heinz") and/or the Del Monte Corporation. It also is Smucker's understanding the Request was directed to Smucker based on StarKist Co.'s response. As explained in more detail below, Smucker is not now nor has it ever been related to Star-Kist Caribe, Inc. Further, Smucker does not now, nor has it ever had any legal obligation for any environmental liabilities associated with Star-Kist Caribe, Inc.

It is Smucker's understanding that Star-Kist, Caribe, Inc. was for a period of time a wholly-owned subsidiary of Star-Kist Foods, Inc., which itself was a wholly-owned subsidiary of Heinz.

Del Monte Foods Company acquired certain assets from Heinz through the Separation Agreement dated June 12, 2002 (the "Separation Agreement") and the Agreement and Plan of Merger dated June 12, 2002 (the "Merger Agreement").

Pursuant to the Separation Agreement, Heinz created SKF Foods, Inc. ("SKF Foods") as a subsidiary to hold all of the assets and liabilities of certain of Heinz's businesses, including its seafood products marketed by the StarKist Seafood business, but these did not include any assets or liabilities associated with any facility or business operations of Star-Kist Caribe, Inc., or otherwise relating to manufacturing or processing operations in Puerto Rico. It is Smucker's understanding that Heinz sold Star-Kist, Caribe, Inc. at some point before the parties signed the Merger Agreement and the Separation Agreement.

Pursuant to the Merger Agreement among Heinz, SKF Foods, Del Monte Corporation and Del Monte Foods Company, Del Monte Corporation, which was a subsidiary of Del Monte Foods Company, merged with SKF Foods and the resulting entity became a wholly owned subsidiary of Del Monte Foods Company. Again, since SKF Foods did not own any assets or liabilities related to Star-Kist Caribe, Inc. or otherwise relating to manufacturing or processing operations in Puerto Rico, Del Monte Corporation DID NOT acquire any assets or liabilities associated with any facility or business operations of Star-Kist Caribe, Inc., or otherwise relating to manufacturing or processing operations in Puerto Rico.

Smucker understand that in February 2014, Del Monte Corporation sold all of its human food businesses to an unaffiliated company, Del Monte Pacific Ltd. Further, to Smucker's knowledge, after the 2014 sale, Del Monte Corporation's only remaining business was its pet food business, so Del Monte Corporation renamed itself as Big Heart Pet Brands. In March of 2015, The J. M. Smucker Company acquired Big Heart Pet Brands. As a result, Smucker has never owned, operated or had any connection whatsoever to the Facility, the Site, or operations in Puerto Rico.

## **SMUCKER'S RESPONSES TO EPA'S REQUESTS**

### **REQUEST NO. 1.**

Answer the following questions regarding the Company:

- a. State the correct legal name and mailing address for the Company;
- b. State the name(s) and address(es) of the President, Chief Executive Officer, and the Chairman of the Board (or other presiding officer) of the Company;

July 24, 2019

The J. M. Smucker Company Response to USEPA Request for Information  
PROTECO Superfund Site  
Penuelas, Puerto Rico

- c. Identify the state/commonwealth and date of incorporation of the Company and the name of its agents for service of process in the state/commonwealth of incorporation and in Puerto Rico, if different; and
- d. Identify any successor corporations, predecessor corporations, or other entities related to the Company. If the Company is or was a subsidiary or affiliate of another corporation or other entity, identify each of those other entities' Chief Executive Officers, Presidents, and Chairpersons of the Board. Identify the state/commonwealth of incorporation and agents for service of process in the state/commonwealth of incorporation and in Puerto Rico, if different, for each entity identified in your response to this question.

**RESPONSE NO. 1:**

- a. The J. M. Smucker Company  
1 Strawberry Lane  
Orrville, Ohio 44667-0280
- b. Mark T. Smucker, President and Chief Executive Officer  
1 Strawberry Lane  
Orrville, Ohio 44667-0280;  
  
Richard K. Smucker, Executive Chairman,  
1 Strawberry Lane  
Orrville, Ohio 44667-0280.
- c. The Company was incorporated in the State of Ohio on September 26, 1921. The name of the Company's agent for service of process is CT Corporation System, 440 East Commons Way, Suite 125, Columbus, OH 43219.
- d. There are no relevant successor or predecessor corporations. The Smucker Corporate history is explained more fully in response to Request No. 2.

**REQUEST NO. 2.**

State the corporate history of the Company, including all name changes and mergers. List all names under which the Company has operated and has been incorporated. For each other name, provide the following information:

- a. Whether that other company or business continues to exist, indicating the date and means by which it ceased operations (e.g., dissolution, bankruptcy, sale) if it is no longer in business;
- b. Names, addresses, and telephone numbers of all registered agents, officers, and operations management personnel; and
- c. Names, addresses, and telephone numbers of all subsidiaries, unincorporated divisions or operating units, affiliates, and parent corporations if any, of that other company.

**RESPONSE NO. 2:**

Since its incorporation on September 26, 1921, The J. M. Smucker Company has always been known as The J. M. Smucker Company. Smucker has merged with several other entities over the years. Effective March 1, 1965, Smucker merged with the Wooster Preserving Company, with Smucker surviving the merger as the surviving corporation. Effective September 23, 1966, Smucker merged with The H.W. Madison Company, with Smucker surviving the merger as the surviving corporation. Effective April 30, 1997, Smucker merged with A.F. Murch Company, with Smucker surviving the merger as the surviving corporation. Effective August 28, 2000, Smucker merged with JMS-Ohio, Inc., with Smucker surviving the merger as the surviving corporation. Effective June 1, 2002, Smucker merged with The Procter & Gamble Ohio Brands Company, with Smucker surviving the merger as the surviving corporation. Effective June 30, 2006, Smucker merged with Smucker Fruit Processing Co., with Smucker surviving the merger as the surviving corporation. Effective April 30, 2010, Smucker merged with Smucker Brands Inc., with Smucker surviving the merger as the surviving corporation. Effective December 31, 2018, Smucker merged with Big Heart, LLC, with Smucker surviving the merger as the surviving corporation.

**REQUEST NO. 3.**

Identify all changes in ownership relating to the Company from its date of incorporation to the present, including the date of any ownership change. If any owner was/is a corporation, identify if the corporation was a subsidiary or division of another corporation. In your identification of any corporation, it is requested that you provide the full corporate name, the state/commonwealth of incorporation, and all fictitious names used/held by that corporation.

**RESPONSE NO. 3:**

Restating and without waiving its general objections, Smucker objects to this Request No. 3 as overbroad and unduly burdensome.

Notwithstanding the objection above, Smucker is a public company whose common shares have been traded on the New York Stock Exchange since 1959, and is traded under the ticker symbol "SJM." Although it would be unduly burdensome for Smucker to report every change in ownership, as its ownership is constantly evolving on the public market, Smucker is providing in a folder labeled Response No. 3 summary beneficial ownership information for each of the past fifteen (15) years, as reported to the U.S. Securities and Exchange Commission ("SEC"). The summary information provided includes ownership information for: (i) each person or group known to Smucker as of such date to be the beneficial owner of more than five percent (5%) of its outstanding common shares, (ii) as of such date, each Director, each nominee for Director listed in Smucker's respective proxy statement and each of Smucker's named executive officers; and (iii) all of Smucker's Directors and executive officers as a group as of such date.

**REQUEST NO. 4.**

For each owner that is a subsidiary of another corporation identified in your answer to Request #3, above, please provide a chart that details the corporate structure from that other company through all intermediary entities to the ultimate corporate parent. For purposes of this information request, the term "ultimate corporate parent" means the corporate entity that, while owning or controlling the majority of the shares of common stock in a subsidiary corporation is not primarily owned/controlled by another corporation.

**RESPONSE NO. 4:**

Restating and without waiving its general objections, Smucker objects to this Request No. 4 as overbroad and unduly burdensome.

Notwithstanding the objection above, information regarding ultimate beneficial ownership and voting control for any shares held by corporations identified in Response No. 3 is included within the footnotes to the documents provided in Response No. 3. Beyond the information included in such footnotes, which is based on the public SEC filings of the owners of Smucker's

common shares, Smucker does not have access to the detailed corporate structure of any of its beneficial owners through all intermediary entities to their ultimate corporate parents.

**REQUEST NO. 5.**

Provide copies of the Company's authority to do business in Puerto Rico. Include all authorizations, withdrawals, suspensions, and reinstatements.

**RESPONSE NO. 5:**

Smucker does not now, nor has it ever, conducted any operations in Puerto Rico.

**REQUEST NO. 6.**

State the dates during which the Company owned, operated, or leased any portion of the Facility, and provide copies of all documents evidencing or relating to such ownership, operation, or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.

**RESPONSE NO. 6:**

Restating and without waiving its general objections, Smucker responds that it does not now, nor has it ever, owned, operated or leased any portion of the Facility.

**REQUEST NO. 7.**

Indicate whether the Company has ever operated at a location other than the Facility. If yes, provide the correct names and addresses of the Company's other facilities where the Company carried out its operations.

**RESPONSE NO. 7:**

Restating and without waiving its general objections, Smucker objects to this Request No. 7 as overbroad, unduly burdensome and as calling for information entirely unrelated to the Site or the disposal of waste materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it has never operated at the Facility. Smucker operates at numerous locations across North America, but never has operated in Puerto Rico.



**REQUEST NO. 8.**

Describe in detail the nature of the business and the operations conducted at the Facility and at any locations identified in response to Request #7, above, during the period that the Company operated there. Provide a brief description of the Company's operations at each facility, including the following:

- a. The date such operations commenced and concluded; and
- b. The types of work performed at each facility, including but not limited to the industrial, chemical, or institutional processes and treatments undertaken at each facility.

**RESPONSE NO. 8:**

Restating and without waiving its general objections, Smucker objects to this Request No. 8 as overbroad and unduly burdensome, and as calling for information entirely unrelated to the Site or the disposal of Waste Materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it never operated at the Facility or at any other location in Puerto Rico. Smucker is in the business of manufacturing and marketing human and pet food products.

**REQUEST NO. 9.**

Describe the current and past business relationship between the Company and Star-Kist Caribe, Inc.

**RESPONSE NO. 9:**

There is no current or past business relationship between Smucker and Star-Kist Caribe, Inc.

**REQUEST NO. 10.**

Describe any asset purchase agreements, whereby some or all of the assets of Star-Kist Caribe, Inc. were ever sold to any other entity, including the date(s), the companies involved, and the terms of such asset purchase agreement(s).

**RESPONSE NO. 10:**

Restating and without waiving its general objections, Smucker objects to this Request No. 10 because it requests information outside the knowledge and control of Smucker.

Notwithstanding the objection above, Smucker responds that to the best of its knowledge, Star-Kist Caribe, Inc. was a subsidiary of Heinz prior to 2002. As explained above in the Background

Information section, Smucker never owned, purchased or sold any assets or liabilities related to Star-Kist Caribe, Inc.

**REQUEST NO. 11.**

Describe the current and past business relationship between the Company and Star-Kist Foods, Inc.

**RESPONSE NO. 11:**

Restating and without waiving its general objections, Smucker responds that it does not have a current or past business relationship with Star-Kist Foods, Inc.

**REQUEST NO. 12.**

Describe any asset purchase agreements, whereby some or all of the assets of Star-Kist Foods, Inc. were ever sold to any other entity, including the date(s), the companies involved, and the terms of such asset purchase agreement(s).

**RESPONSE NO. 12:**

Restating and without waiving its general objections, Smucker responds that it does not have any knowledge relating to any asset purchase agreements involving the sale of the assets of Star-Kist Foods, Inc.

**REQUEST NO. 13.**

Identify all meetings and communications that the officers, directors, or employees of the Company participated in or attended regarding the operations of the Facility.

**RESPONSE NO. 13:**

Restating and without waiving its general objections, Smucker responds that none of its officers, directors or employees have ever had any meetings, or other communications regarding the operations of the Facility.

**REQUEST NO. 14.**

Identify what, if any, reports, statements, or other documents the officers or directors of the Company wrote or received regarding the operations of the Facility and describe what, if any, information the officers and directors received concerning the operations of the Facility.

**RESPONSE NO. 14:**

Restating and without waiving its general objections, Smucker responds that to its knowledge, none of its officers, directors or employees have ever written or received any information, reports, statements or other documents regarding the operations of the Facility.

**REQUEST NO. 15.**

Identify any employees, officers, or directors of the Company who participated in discussions or other communications regarding any decision pertaining to disposal of waste materials from the Facility.

**RESPONSE NO. 15:**

Restating and without waiving its general objections, Smucker responds that none of its officers, directors or employees have participated in discussions or other communications regarding any decisions pertaining to disposal of waste materials from the Facility.

**REQUEST NO. 16.**

State whether any officers or directors of the Company approved, authorized, discussed, or had knowledge or awareness of any arrangement to dispose of wastes from the Facility. Describe the nature and extent of such approval, authorization, discussion, knowledge, or awareness.

**RESPONSE NO. 16:**

Restating and without waiving its general objections, Smucker responds that none of its officers, directors or employees approved, authorized, discussed, or had knowledge or awareness of any arrangement to dispose of wastes from the Facility.

**REQUEST NO. 17.**

Indicate whether any reports discussing waste disposal practices at the Facility were ever received by officers or directors of the Company. If your answer to this Request is in the affirmative, indicate (i) when such reports were received, (ii) who the originator of such reports was, (iii) who such reports were directed to, and (iv) the content of such reports. If such reports are in your possession or control, submit copies of such reports to EPA.

**RESPONSE NO. 17:**

Restating and without waiving its general objections, Smucker responds that to its knowledge, none of its officers or directors have ever received any reports discussing waste disposal practices at the Facility.

**REQUEST NO. 18.**

In *Sasportes v. The MIV Sol de Copacabana*, 1976 U.S. Dist. LEXIS 15546 (D.C.Z. 1976) and *Sasportes v. MIV Sol de Copacabana*, 581 F.2d 1204 (5th Cir. 1978), Star-Kist Foods, Inc. claimed to hold a maritime lien against a Spanish corporation's (Navexport) ship. Navexport and Star-Kist Caribe, Inc. were parties to agreements giving rise to the maritime lien. Both the district court and the Fifth Circuit Court of Appeals treated StarKist Caribe, Inc. and Star-Kist Foods, Inc. as the same entity. Provide the following information regarding this litigation:

- a. Copies of the abovementioned agreements between Navexport and Star-Kist Caribe, Inc.;
- b. A detailed description of the outcome of the above-referenced litigation and the ultimate disposition of the proceeds of the judicial sale of Navexport's vessel. In particular, identify which company (Star-Kist Caribe, Inc. or Star-Kist Foods, Inc.) received the proceeds of the judicial sale.; and
- c. A description answering why Star-Kist Foods, Inc. (and not Star-Kist Caribe, Inc.) claimed to hold a maritime lien against Navexport's ship even though it was apparently Star-Kist Caribe, Inc. that had entered into contractual agreements with Navexport.

**RESPONSE NO. 18:**

Restating and without waiving its general objections, Smucker responds that it has never had any relationship with Star-Kist Caribe, Inc. and never had any involvement whatsoever in the referenced litigation. Smucker has no information responsive to this Request No. 18.

**REQUEST NO. 19.**

According to an audit of Star-Kist Caribe, Inc. financial statements, in approximately 1997, Star-Kist Caribe, Inc. reduced its operation in Puerto Rico drastically, transferring approximately \$24,650,000.00 in property and equipment related to its can manufacturing operations to Star-Kist Foods, Inc. (approximately \$17,000,000) and to another affiliate, Mani Can Corporation (approximately \$7,650,000). Provide all documentation regarding this reduction in operation and transfer of property and equipment.

**RESPONSE NO. 19:**

Restating and without waiving its general objections, Smucker responds that it has never had any relationship with Star-Kist Caribe, Inc. or Mani Can Corporation. Smucker has no information responsive to this Request No. 19.

**REQUEST NO. 20.**

Pursuant to a Purchase Agreement dated June 29, 2008, Del Monte Corporation sold its Starkist Seafood Business to Dongwon Industries Co., Ltd. Explain what assets and liabilities were transferred as part of this purchase agreement and provide all documentation of this purchase agreement. In particular, explain what pre-existing environmental liabilities were retained by Del Monte Corporation, and whether the Company has retained those liabilities.

**RESPONSE NO. 20:**

Restating and without waiving its general objections, Smucker provides the following information regarding the 2008 transaction between Del Monte Corporation and Dongwon Industries Co., Ltd. **As an initial matter, and as explained more fully in the Background Information section and below, Del Monte Corporation never had any ownership interest in, nor was it responsible for, any liabilities of Star-Kist Caribe, Inc.**

As described in the Dongwon Purchase Agreement (defined below), the assets and liabilities transferred to Dongwon Industries Co., Ltd. ("Dongwon Industries") by Del Monte Corporation did not include any operations in Puerto Rico because Del Monte Corporation did not have any operations in Puerto Rico. Specifically, Del Monte Corporation had no ownership interest in Star-Kist Caribe, Inc. and Del Monte had no connection or involvement with the Facility or the Site.

Pursuant to the Dongwon Purchase Agreement, dated June 29, 2008, by and among Del Monte Corporation, Dongwon Enterprise Co., Ltd. ("Dongwon Enterprise"), Dongwon Industries, Dongwon F&B Co., Ltd. ("Dongwon F&B"), Starkist Co. ("Starkist," and together with Dongwon Enterprise, Dongwon Industries and Dongwon F&B, the "Buyer") and Starkist Samoa Co. (the "Dongwon Purchase Agreement"), a copy of which is provided in a folder labeled Response No. 20, Del Monte Corporation sold certain Conveyed Assets (as defined in Section

2.2 of the Dongwon Purchase Agreement) to the Buyer, while other Excluded Assets (as defined in Section 2.3 of the Dongwon Purchase Agreement) were not assumed by the Buyer. The Buyer also assumed certain Assumed Liabilities (as defined in Section 2.4 of the Dongwon Purchase Agreement), while certain Excluded Liabilities (as defined in Section 2.5 of the Dongwon Purchase Agreement) were not assumed by the Buyer. Any capitalized terms used, but not otherwise defined in this response to Request 20 shall have the meaning assigned to such terms in the Dongwon Purchase Agreement.

Section 2.5(d) of the Dongwon Purchase Agreement specifies that all “Company Retained Environmental Liabilities” constitute Excluded Liabilities that are not assumed by the Buyer. Company Retained Environmental Liabilities is defined in Section 1.1 of the Dongwon Purchase Agreement as “all Liabilities, whether arising prior to, on or after the Closing Date (A) occurring out of activities conducted by the Business prior to the Closing Date, or concerning pollution, contamination or environmental conditions created by the Business prior to the Closing Date or created by a third party during the Business’s operations prior to the Closing Date at any of the real property which is used in connection with the Business (i) arising under Environmental Laws or under any contractual obligation entered into prior to the Closing Date, (ii) relating to violations of Environmental Laws, or (iii) relating to any off site locations at which any waste or Hazardous Substance has been transported, treated, stored, or disposed; and (B) relating to the Terminal Island Facility, including any Release or threatened Release of Hazardous Substances at, in, or on the Terminal Island Facility, whether occurring prior to, on, or after the Closing Date.”

Despite the fact that Company Retained Environmental Liabilities constituted Excluded Liabilities under the terms of the Dongwon Purchase Agreement, the Company notes that Del Monte Corporation did not retain any Company Retained Environmental Liabilities with respect to Star-Kist Caribe, Inc., **as Star-Kist Caribe, Inc. was not included in the definition of Del Monte Corporation’s “Business” in the Dongwon Purchase Agreement**, a required element for an environmental liability to constitute a Company Retained Environmental Liability.

“Business” is defined in the Background of the Dongwon Purchase Agreement to include certain activities of the “DM Entities,” which constitute Galapesca, S.A., a corporation organized under the laws of Ecuador, Panapesca Fishing, Inc., a corporation organized under the laws of Panama, Marine Trading Pacific, Inc., a Delaware corporation, and Star-Kist Samoa, Inc., a California corporation. **We note that this definition does not include Star-Kist Caribe, Inc. as an entity that conducts Business of the Del Monte Corporation, and as such, any environmental liabilities with respect to Star-Kist Caribe, Inc. did not constitute Company Retained Environmental Liabilities retained by Del Monte Corporation pursuant to the terms of the Dongwon Purchase Agreement.**

**REQUEST NO. 21.**

On or around March 8, 2011, Del Monte Foods Company was acquired by an investor group. Explain what assets and liabilities were transferred as part of this transaction and provide all documentation of the transaction.

**RESPONSE NO. 21:**

Restating and without waiving its general objections, Smucker objects to this Request No. 21 as overbroad and unduly burdensome.

Notwithstanding the objection above, Smucker responds that the March 8, 2011 acquisition of Del Monte Foods Company did not include Star-Kist Caribe, Inc., or in any way relate to operations in Puerto Rico or the Site because, to Smucker's knowledge, Del Monte Corporation did not have any operations in Puerto Rico, at the Facility or at the Site. On March 8, 2011, Del Monte Foods Company was acquired by merger by Blue Acquisition Group, Inc., a Delaware corporation, which was owned by a consortium of private equity funds affiliated with Kohlberg Kravis Roberts & Co. L.P., Vestar Capital Partners and Centerview Partners. This acquisition was consummated pursuant to the terms of that Agreement and Plan and Merger, by and among Blue Acquisition Group, Inc., Blue Merger Sub Inc. ("Blue Merger Sub") and Del Monte Foods Company, dated as of November 24, 2010 (the "Del Monte Merger Agreement"). Pursuant to the terms of the Del Monte Merger Agreement, at the effective time of the merger, Del Monte Foods Company merged with and into Blue Merger Sub, with Blue Merger Sub surviving the merger, with all of the property, rights, privileges, powers and franchises of Del Monte Foods Company, and all debts, liabilities and duties of Del Monte Foods Company becoming those of Blue Merger Sub as the surviving corporation in the merger. Del Monte Foods Company ceased to exist as a result of the merger, with all of its assets and liabilities vesting in the surviving corporation. A copy of the Del Monte Merger Agreement, as filed by Del Monte Foods Company with the SEC on Form 8-K on November 30, 2010, is provided in a folder labeled Response No. 21.

**REQUEST NO. 22.**

On or about February 19, 2014, Del Monte Corporation changed its name to Big Heart Pet Brands. Provide documentation of this name change.

**RESPONSE NO. 22:**

Restating and without waiving its general objections, Smucker objects to this Request No. 22 as overbroad and unduly burdensome.

Notwithstanding the objection above, Smucker responds that any action taken to rename Del Monte Corporation as Big Heart Pet Brands on or about February 19, 2014 occurred prior to the

Smucker's purchase of Big Heart Pet Brands. Smucker has no documentation of this event that pre-dated its ownership of Big Heart Pet Brands.

**REQUEST NO. 23.**

In March 2015, Big Heart Pet Brands was purchased by the Company. Explain what assets and liabilities were transferred as part of this transaction and provide all documentation of the transaction.

**RESPONSE NO. 23:**

Restating and without waiving its general objections, Smucker objects to this Request No. 23 as overbroad and unduly burdensome. **The March 2015 acquisition of Big Heart Pet Brands did not in any way relate to operations in Puerto Rico, the Facility or the Site because Big Heart Pet Brands did not have any operations in Puerto Rico, at the Facility or at the Site.**

Notwithstanding the objection above, Smucker responds that on March 23, 2015, Smucker acquired Big Heart Pet Brands by merger. Such acquisition was consummated pursuant to the terms of that Agreement and Plan and Merger, by and among Blue Acquisition Group, Inc. ("BAG"), Smucker, SPF Holdings I, Inc. ("SPF I"), SPF Holdings II, LLC ("SPF II") and Blue Holdings I, L.P. ("BH"), dated as of February 3, 2015 (the "Big Heart Merger Agreement"). SPF I and SPF II were owned and controlled by Smucker and BH was the stockholder representative for Seller. Pursuant to the terms of the Big Heart Merger Agreement, at the effective time of the merger, SPF I merged with and into BAG, with BAG continuing as the surviving corporation and a wholly owned subsidiary of Smucker, and BAG subsequently merged with and into SPF II with SPF II continuing as the surviving entity and a wholly owned subsidiary of Smucker. On March 23, 2015, BH received, in exchange for its 312,829,237 shares of common stock of BAG, an aggregate of 17,061,079 shares of Smucker's common stock. A copy of the Big Heart Merger Agreement, as filed by Smucker with the SEC on Form 8-K on February 4, 2015, is provided in a folder labeled Response No. 23.

**REQUEST NO. 24.**

Indicate whether the Company is the successor to any liabilities, including those under CERCLA, of Star-Kist Foods, Inc.

**RESPONSE NO. 24:**

Restating and without waiving its general objections, Smucker states that it is NOT the successor to any liabilities, including those under CERCLA, of Star-Kist Foods, Inc. Smucker has never had any relationship whatsoever with Star-Kist Foods, Inc. The Separation Agreement and the Merger Agreement is provided in a folder labeled Response No. 24.



**REQUEST NO. 25.**

Indicate whether the Company is the successor to any liabilities, including those under CERCLA, of Star-Kist Caribe, Inc.

**RESPONSE NO. 25:**

Restating and without waiving its general objections, Smucker states that it is NOT the successor to any liabilities, including those under CERCLA, of Star-Kist Caribe, Inc. Smucker has never had any relationship whatsoever with Star-Kist Caribe, Inc. See the attached Separation Agreement and the Merger Agreement provided in the Response to Request No. 24.

**REQUEST NO. 26.**

Describe how the Company came to possess the hazardous substances that came to be located at the Site.

**RESPONSE NO. 26:**

Restating and without waiving its general objections, Smucker states that it has never possessed any substances, including hazardous substances, that came to be located at the Site.

**REQUEST NO. 27.**

List all hazardous substances used, generated, treated, stored, disposed of, manufactured, recycled, recovered, treated, or otherwise processed during the Company's operations at the Facility.

**RESPONSE NO. 27:**

Restating and without waiving its general objections, Smucker states that it has never owned or operated the Facility. Further, Smucker never used, generated, treated, stored, disposed of, manufactured, recycled, recovered, treated or otherwise processed any substances, including hazardous substances, at the Facility.

**REQUEST NO. 28.**

List and fully describe all waste streams generated from the Company's operations, including solid, liquid, or any other type of waste.

**RESPONSE NO. 28:**

Restating and without waiving its general objections, Smucker objects to this Request No. 28 as overbroad, and unduly burdensome to the extent it requests information entirely unrelated to the Site, the Facility or the disposal of waste materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to Puerto Rico for disposal.

Regarding Smucker's operations, Smucker's practice is to operate in conformance with all applicable laws and regulations concerning purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials, including any solid, liquid or any other type of waste.

**REQUEST NO. 29.**

Describe in detail the handling, storage, and disposal practices employed by the Company for each waste stream resulting from the Company's operations.

**RESPONSE NO. 29:**

Restating and without waiving its general objections, Smucker objects to this Request No. 29 as overbroad and unduly burdensome to the extent it requests information entirely unrelated to the Site, the Facility or the disposal of waste materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to Puerto Rico for disposal.

Regarding Smucker's operations, Smucker's practice is to operate in conformance with all applicable laws and regulations concerning purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials, including any solid, liquid or any other type of waste.

**REQUEST NO. 30.**

Identify all individuals who had responsibility for the Company's environmental and waste management decisions between 1975 and 1999 (e.g., responsibility for decisions regarding the disposal, treatment, storage, recycling, or sale of the Company's hazardous substances, hazardous wastes, and industrial wastes).

- a. Provide each such individual's job title, duties, dates performing those duties, supervisors for those duties, current position, and if applicable, the date of the individual's resignation or termination.
- b. Provide the nature of the information possessed by each such individual concerning the Company's waste management.

**RESPONSE NO. 30:**

Restating and without waiving its general objections, Smucker objects to this Request No. 30 as overbroad, unduly burdensome to the extent it requests information entirely unrelated to the Site, the Facility or the disposal of waste materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to Puerto Rico for disposal.

**REQUEST NO. 31.**

For each type of hazardous substance, hazardous waste, and industrial waste used or generated by the Company, describe the Company's agreements or other arrangements for its disposal, treatment, storage, recycling, or sale.

- a. Provide any agreement and document, including waste logs, journals, manifests, or notes, related to any transfer of hazardous substances, hazardous wastes, and industrial wastes from the Company's Facility that came to be located at the Site.
- b. Provide all correspondence and written communications between the Company and each owner/operator of the Site regarding the Company's hazardous substances, hazardous wastes, and industrial wastes that came to be located at the Site.

**RESPONSE NO. 31:**

Restating and without waiving its general objections, Smucker objects to this Request No. 31 as overbroad and unduly burdensome to the extent it requests information entirely unrelated to the Site, the Facility or the disposal of waste materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to Puerto Rico for disposal.

**REQUEST NO. 32.**

Provide agreements and documents related to the following, including waste logs, journals, manifests, or notes, as set forth below:

- a. The locations where the Company sent each type of hazardous substance, hazardous waste, and industrial waste for disposal, treatment, or recycling;

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- b. List all Waste Transporters used by the Company;
- c. For each type of hazardous substance, hazardous waste, and industrial waste, specify which Waste Transporter picked it up;
- d. For each type of hazardous substance, hazardous waste, and industrial waste, state how frequently each Waste Transporter picked up such waste;
- e. For each type of hazardous substance, hazardous waste, and industrial waste, provide the volume picked up by each Waste Transporter (per week, month, or year);
- f. For each type of hazardous substance, hazardous waste, and industrial waste, identify the dates (beginning & ending) such waste was picked up by each Waste Transporter;
- g. Indicate the ultimate location for each type of hazardous substance, hazardous waste, and industrial waste. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of hazardous substance, hazardous waste, and industrial waste;
- h. Describe how the Company managed pickups of each hazardous substance, hazardous waste, and industrial waste including but not limited to:
  - i. The method for inventorying each type of hazardous substance, hazardous waste, and industrial waste;
  - ii. The method for requesting each type of hazardous substance, hazardous waste, and industrial waste to be picked up;
  - iii. The identity of the Waste Transporter employee/agent contacted for pickup of each type of hazardous substance, hazardous waste, and industrial waste; and
  - iv. The amount paid or the rate paid for the pickup of each type of hazardous substance, hazardous waste, and industrial waste;
- i. Identify the individual or organization that selected the location where each of the Company's wastes were taken. Describe the basis for and provide any documents supporting the answer to this Request.

**RESPONSE NO. 32:**

Restating and without waiving its general objections, Smucker objects to this Request No. 32 as overbroad and unduly burdensome to the extent it requests information entirely unrelated to the Site, the Facility or the disposal of waste materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to Puerto Rico for disposal.

Regarding Smucker's operations, Smucker's practice is to operate in conformance with all applicable laws and regulations concerning purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials, including any solid, liquid or any other type of waste.

**REQUEST NO. 33.**

If not already provided, specify the dates and circumstances when the Company's hazardous substances, hazardous wastes, and/or industrial wastes were sent, brought, or moved to the Site, and identify the names, addresses, and telephone numbers of the person(s) making arrangements for the containers (e.g., 55-gallon drum, dumpster, etc.) holding hazardous substances, hazardous wastes, and/or industrial wastes to be sent, brought, or transported to the Site. Please also provide all documents that support or memorialize the answer to this Request.

**RESPONSE NO. 33:**

Restating and without waiving its general objections, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to the Site or to any other location in Puerto Rico.

**REQUEST NO. 34.**

Identify, describe, and provide all documents that refer or relate to the following:

- a. The nature, including the chemical content, characteristics, physical state (e.g., solid, liquid), and quantity (volume and weight) of all hazardous substances, hazardous wastes, and industrial wastes involved in each arrangement transferring materials from any facility owned or operated by the Company (including the Facility) to any other facility;
- b. In general terms, the nature and quantity of the non-hazardous substances involved in each such arrangement;

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- c. The hazardous substances being mixed or combined with other hazardous substances or non-hazardous substances for each such arrangement. Indicate whether such mixing or combining is common in the industry. Indicate whether the Company was ever asked to stop mixing or combining the hazardous substances with the non-hazardous substances;
- d. Other materials other than the hazardous substances that were involved in the transaction;
- e. The condition of the transferred material containing hazardous substances when it was stored, disposed of, treated, or transported for disposal or treatment;
- f. The markings on and type, condition, and number of containers in which the hazardous materials were contained when they were stored, disposed, treated, or transported for disposal or treatment; and
- g. All tests, analyses, analytical results, and manifests concerning each hazardous substance, hazardous waste, and industrial waste involved in each transaction. Include information regarding who conducted the test and how the test was conducted (batch sampling, representative sampling, splits, composite, etc.).

**RESPONSE NO. 34:**

Restating and without waiving its general objections, Smucker objects to this Request No. 34 as overbroad, unduly burdensome to the extent it requests information entirely unrelated to the Site, the Facility or the disposal of waste materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to Puerto Rico for disposal.

Regarding Smucker's operations, Smucker's practice is to operate in conformance with all applicable laws and regulations concerning purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials, including any solid, liquid or any other type of waste.

**REQUEST NO. 35.**

Indicate how long the Company has had a relationship with the owner(s) and/or operator(s) of the Site.

**RESPONSE NO. 35:**

Restating and without waiving its general objections, Smucker responds that it has never had any relationship with any owner or operator of the Site.

**REQUEST NO. 36.**

Identify any individuals, including former and current employees, who may be knowledgeable of the Company's operations and practices concerning the handling, storage, and disposal of hazardous substances.

**RESPONSE NO. 36:**

Restating and without waiving its general objections, Smucker objects to this Request No. 36 as overbroad and unduly burdensome to the extent it requests information entirely unrelated to the Site, the Facility or the disposal of waste materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to Puerto Rico for disposal.

**REQUEST NO. 37.**

Please provide all documents, if not already requested above, that support your responses to Requests # 1 - #36, above.

**RESPONSE NO. 37:**

Copies of responsive documents are provided in folders corresponding to the relevant request.

**REQUEST NO. 38.**

If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:

- a. The Company's document retention policy between 1975 and 2018;
- b. A description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction;
- c. A description of the type of information that would have been contained in the documents;
- d. The name, job title, and most current address known by you of the person(s) who would have produced these documents, the person(s) who would have been responsible for the retention of these documents, the person(s) who would have been responsible for the destruction of these documents, and the person(s) who had and/or still may have the originals or copies of these documents; and
- e. The names and most current address of any person(s) who may possess documents relevant to this inquiry.

**RESPONSE NO. 38:**

Smucker is not aware of any documents solicited in this Request and that are no longer available.

**REQUEST NO. 39.**

Please provide copies of the Company's financial statements, shareholder's reports, financial audits, or other financial reports showing its assets, profits, liabilities, and current financial status for the last five years.

**RESPONSE NO. 39:**

Restating and without waiving its general objections, Smucker objects to this Request No. 39 as overbroad and unduly burdensome to the extent it requests information entirely unrelated to the Site, the Facility or the disposal of waste materials in Puerto Rico.

Notwithstanding the objection above, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to Puerto Rico for disposal. Smucker further responds that much of the requested information is publicly available.



**REQUEST NO. 40.**

List and provide a copy of all agreements or contracts, including but not limited to insurance policies and indemnification agreements, held or entered into by the Company or its parent corporation(s), subsidiary, or subsidiaries that could indemnify it against any liability that it may have under CERCLA for releases or threatened releases of hazardous substances at and from the Facility. In response to this Request, please provide not only those insurance policies and agreements that currently are in effect, but also provide those that were in effect during the period(s) when any hazardous substances, hazardous wastes, and/or industrial wastes may have been released or threatened to be released into the environment at or from the Facility.

**RESPONSE NO. 40:**

Restating and without waiving its general objections, Smucker responds that it has never conducted any operations whatsoever in Puerto Rico and it has not assumed any liabilities for any entity currently or formerly located or operating in Puerto Rico. Smucker has never sent any waste materials to Puerto Rico.

As such, Smucker is not aware of any insurance policies that would provide coverage with respect to releases of hazardous substances at or from the Facility. Smucker's Separation Agreement with Heinz provides certain indemnification rights **BUT NO INDEMNITY OBLIGATIONS UPON SMUCKER**. See the Separation Agreement provided in a folder labeled Response No. 24 for more details.

**REQUEST NO. 41.**

State whether any claim or claims have been made by the Company to any insurance company for any loss or damage related to operation at the Site, and if so, identify each claim by stating the name of the claimant, the name and address of the insurance company, the policy number, the named insured on the policy, claim number, date of claim, amount of claim, the specific loss or damage claimed, the current status of the claim, and the amount, date, and recipient of any payment made on the claim.

**RESPONSE NO. 41:**

Restating and without waiving its general objections, Smucker responds that it has made no claims to any insurance company in regards to the Site.

**REQUEST NO. 42.**

If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

**RESPONSE NO. 42:**

Heinz may be able to provide information concerning the Facility or the Site.

**REQUEST NO. 43.**

State the name, title, and address of each individual who assisted or was consulted in the preparation of the response to this Request for Information. In addition, state whether this person has personal knowledge of the information in the answers provided.

**RESPONSE NO. 43:**

Jackie Welch  
Vice President - Litigation  
The J. M. Smucker Company  
1 Strawberry Lane, Orrville, Ohio 44667-0280.

Lynn Boris  
Senior Corporate Counsel  
The J. M. Smucker Company  
1 Strawberry Lane, Orrville, Ohio 44667-0280.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State/Commonwealth of Ohio

County/Municipality of Wayne

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

Jaclyn Bryk Welch  
NAME (print or type)

Vice President, Litigation  
TITLE (print or type)

Jaclyn Bryk Welch  
SIGNATURE

Sworn to before me this

23rd day of July 2019.

Notary Public



CYNTHIA M. COOK  
NOTARY PUBLIC  
STATE OF OHIO  
Recorded in  
Summit County  
My Comm. Exp. 1/22/2024